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UNITED STATES BANKRUPTCY COURT

DISTRICT OF ARIZONA

KEVIN E. O'BRIEN, CLERK
UNITED STATES
BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

PROCEDURES GOVERNING
THE CONFIRMATION OF PLANS,
AMENDED OR MODIFIED PLANS,
MORATORIUMS AND
DISMISSALS IN
CHAPTER 13 CASES.

**GENERAL ORDER
NO. 83**

The following procedures shall apply to all proceedings for confirmation of a plan, amended plan or modified plan, motions for moratorium, and trustee motions to dismiss filed in connection with all Chapter 13 cases in this district.

These procedures have governed Chapter 13 proceedings in this district since June 30, 1997, by the entry of an order setting forth these procedures in each Chapter 13 case filed. That order was mailed to the debtor, attorney for debtor and the trustee. The entry of this General Order which applies to all Chapter 13 cases filed in this district will eliminate the necessity of entering and docketing an order in each Chapter 13 case. It will also permit the clerk to include this General Order with the Notice of the Chapter 13 Meeting of Creditors which will give Notice of these Chapter 13 procedures to all creditors.

A. PURPOSE

The purpose and intention of this order and directed procedures are to reduce and eliminate confirmation hearings when there are no objections or when any objections of creditors or concerns of the trustee can be resolved without judicial intervention. The court's time will then be allocated to only those chapter 13 confirmation issues where the parties are not in agreement or have other issues which need to be heard and decided by the court. Those provisions of The Local Rules of Bankruptcy Procedure that are inconsistent with these procedures are modified so that these requirements control the proceedings in this case.

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B. NOTICING

- (1) The debtor shall serve on all creditors the plan (original, amended or modified) and plan analysis or motion for moratorium and a notice containing the appropriate deadlines set forth below.
- (2) After the debtor makes service of the plan or motion for moratorium, the debtor shall file a certificate of service within five days. A copy of the plan or motion that was mailed, the mailing list used, and the notice mailed shall be attached to the certificate of service. The debtor shall serve a copy of the certificate of service with all attachments on the trustee.
- (3) An amended plan filed prior to confirmation may be served only on the trustee and those creditors adversely affected thereby.
- (4) **Deadline for Service of Plan or Motion for Moratorium and Notice:**
 - (a) For original plans, the plan must be served within 30 days after the filing of the petition.
 - (b) Service of amended or modified plans or motion for moratorium must be made within 15 days after filing.
 - (c) If service of any plan or motion for moratorium is not timely made and a certificate of service filed, the trustee may lodge an order dismissing the case.

C. OBJECTIONS TO PLANS OR MOTION FOR MORATORIUM

- (1) The failure of a party in interest to timely file an objection to confirmation of a plan or the granting of a motion for moratorium shall constitute acceptance of the plan or motion pursuant to 11 U.S.C. § 1325(a) (5) (A).
- (2) For an original plan, the deadline for the filing of an objection is 60 days after the date first set for the meeting of creditors.
- (3) For an amended plan, a modified plan or a motion for moratorium, the deadline for the filing of an objection is 25 days from the date of service or 60 days after the date first set for the first meeting of creditors, whichever is later.

D. TAX RETURNS

The debtor shall file any due but unfiled tax returns within 60 days after the date first set for the meeting of creditors. If not timely filed, the trustee may lodge an order dismissing the case.

E **TRUSTEE'S RECOMMENDATION/OBJECTION**

(1) Time for Filing

(a) For an original plan, the trustee's recommendation/objection shall be filed no later than 90 days after the date first set for the meeting of creditors.

(b) For amended or modified plans, or motions for moratorium, the trustee's recommendation/objection shall be filed no later than 45 days after service or 90 days after the date first set for the meeting of creditors, whichever is later.

(2) The debtor shall comply with any requirements stated in the trustee's recommendation/objection requesting documentation or information, or to pay any delinquent plan payments. The debtor shall comply with the trustee's requests within 30 days after the recommendation/objection is filed. If the debtor does not timely comply, the trustee may lodge an order dismissing the case.

(3) Rather than prepare a recommendation/objection, if the debtor makes no plan payments by the deadline for creditor objections set by C(2) above, the trustee may lodge an order dismissing the case.

F. **CONFIRMATION OF PLAN OR GRANTING OF MOTION FOR MORATORIUM**

The original, amended or modified plan may be confirmed or a motion for moratorium granted without a hearing provided:

(1) There are no timely objections filed by creditors and the trustee recommends confirmation or approval; or

(2) The trustee and all objecting creditors agree to a stipulated order.

G. **HEARINGS ON OBJECTIONS**

(1) If there is an objection to confirmation of any plan or a motion for moratorium which is unresolved by 30 days after the trustee's recommendation is filed, and the debtor is represented by an attorney, the attorney for the debtor shall obtain a hearing on the objection.

(2) If there is an objection to confirmation of a plan, or a motion for moratorium which is unresolved by 30 days after the trustee's recommendation is filed, a debtor that is not represented by an attorney shall so notify the trustee in writing and the trustee shall obtain a hearing on the objection.

- 1 (3) The debtor, trustee or creditor may request the court to set a confirmation hearing
2 rather than a hearing on an objection.

3 H. **TRUSTEE MOTION TO DISMISS**

- 4 (1) A motion to dismiss filed by the trustee on the grounds that the debtor is delinquent
5 in one or more plan payments may provide for dismissal of the case unless the
6 debtor does one of the following within 30 days of the mailing of the motion.
7 (a) Makes payment to the trustee of the amounts stated as delinquent in the
8 motion;
9 (b) Files with the court, and serves a copy on the trustee, a notice of conversion
10 to Chapter 7; or
11 (c) Files with the court, and serves a copy on the trustee, a motion for
12 moratorium of the delinquent plan payments.
13 (2) If the debtor fails to timely do one of the above, the trustee may lodge an order
14 dismissing the case.

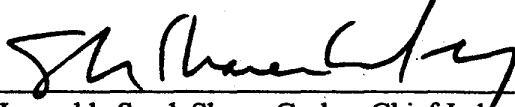
15 I. **DEBTORS NOT REPRESENTED BY AN ATTORNEY**

16 Debtors not represented by an attorney must contact the vendor, selected and authorized by
17 the trustee, to arrange for the mailing of their plan or motion for moratorium. Debtors are also
18 responsible for the cost of the noticing services.

19 J. **REINSTATEMENT OF DISMISSED CASES**

20 If this case is dismissed on motion of the trustee, a motion to reinstate the case may be
21 granted, without a hearing, if the trustee has approved the proposed reinstatement order. If the
22 trustee does not approve the order, the matter may be set for hearing upon debtor's request. The
23 Court may set a hearing on the motion to reinstate on request of an interested party who had joined
24 the trustee's dismissal motion.

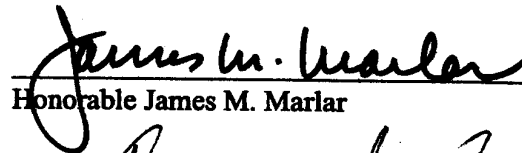
25 DATED: JANUARY 7, 2002

26 
Honorable Sarah Sharer Curley, Chief Judge


Honorable George B. Nielsen, Jr.



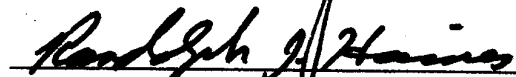
Honorable Redfield T. Baum



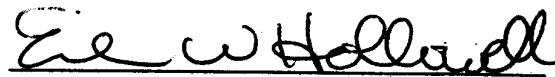
Honorable James M. Marlar



Honorable Charles G. Case II



Honorable Randolph J. Haines



Honorable Eileen W. Hollowell

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